

Remarks

The specification is amended in the heading above paragraph 0465 of the published application solely to correct a typographical error.

Claims 1-3, 5, 8-14, 16-18, 22, 23, 37, 38, and 41-44 are currently pending in the application. Applicant thanks the Examiner for deeming claims 1, 5, 8-14, 16, 17, 22, 23 and 41-44 to be allowable. Claim 2 is amended to properly depend from claim 1. Support for this amendment is found at least in paragraph 0108 and FIGS. 1, 1B and 2 of the published application. Claim 18 is amended herein to recite that the claimed cell is "isolated", and claims 9, 14 and 22 are amended hereinto recite that the claimed element or polynucleotide is isolated. Support for these amendments are found in the published application at least at paragraphs 0007, 0092, 0124, 0139, 0407, 0473 and 0475 of the published application. Claims 3 and 37 are canceled without prejudice. Applicant expressly reserves the right to prosecute the subject matter of canceled claims 3 and 37 in a related application. Upon entry of the present amendments, claims 1, 2, 5, 8-14, 16-18, 22, 23, and 41-44 will be pending in this application.

It is submitted that no new matter has been introduced by the present amendments and entry of the same is respectfully requested.

The Rejection of Claim 18 Under 35 U.S.C. § 101 Should Be Withdrawn

The Examiner has rejected claim 18 under 35 U.S.C. § 101 as directed to non-statutory subject matter, and has suggested inserting "An isolated" prior to the recited "cell". Office Action, pages 2-3. Applicant has amended claim 18 to recite that the claimed cell is isolated. Applicant therefore respectfully requests that the Examiner withdraw the rejection of claim 18 on this basis.

The Rejection of Claims 3 and 37 Under 35 U.S.C. § 112, First Paragraph Should be Withdrawn

The Examiner has rejected claim 3 under 35 U.S.C. § 112, first paragraph, as allegedly including new matter. Without admitting that the Examiner's characterization is correct, and solely to facilitate allowance of the remaining claims, Applicant hereby cancels claim 3 without prejudice. Thus, the Examiner's rejection of claim 3 is now moot.

The Examiner has also rejected claim 37 under 35 U.S.C. § 112, first paragraph, as allegedly lacking enablement. Without admitting that the Examiner's characterization is

correct, and solely to facilitate allowance of the remaining claims, Applicant hereby cancels claim 37 without prejudice. Thus, the Examiner's rejection of claim 37 is now moot.

Applicant therefore respectfully requests that the Examiner withdraw the rejection of claims 3 and 37 on this basis.

The Rejection of Claim 2 Under 35 U.S.C. § 112, Second Paragraph Should be Withdrawn

The Examiner has rejected claim 2 under 35 U.S.C § 112, second paragraph as allegedly indefinite in that the phrase "SEQ ID NO. 1.". Applicant has amended claim 2 to refer to specific nucleotide sequences within SEQ ID NO: 2. Thus, claim 2 as amended properly depends from claim 1. Applicant respectfully requests that the Examiner withdraw the rejection of claim 2 on this basis.

CONCLUSION

Applicant respectfully requests that the above amendments and remarks be entered in the present application file. An early allowance of the present application is respectfully requested. Should the Examiner have any concerns as to the allowability of any pending claim, or has concerns that any claim, as amended, would require further search, the Examiner is invited to contact the undersigned at 858-314-1171 or 858-314-1200 to discuss the matter to facilitate allowance of the application.

No fee, other than the extension of time fee, is believed due for this Amendment. However, if a fee is due, please charge such fee to Jones Day Deposit Account No. 50-2468.

Respectfully submitted,

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